

REMARKS

Reconsideration is requested.

It is the undersigned's understanding from the teleconferences with the Examiner on April 9 and 12, 2007, that the Amendment of March 26, 2007 has not been entered. The above amendments therefore repeat claim amendments made in the Amendment of March 26, 2007. The claims have been further amended in a manner believed to have been indicated by the Examiner to place the application in condition for allowance. Entry of the present Amendment and issuance of a Notice of Allowance are requested.

Claims 1-21, 24-31, 33-35, 38-39, 42-47, 49-57, 59-61, 63-64 and 66-68 have been canceled, without prejudice.

Claims 1, 15, 16, 22-24, 32, 36, 37, 40, 41, 48, 50, 51, 57, 58 and 62-69 are pending. Claim 48 has been allowed. Claims 22-23, 32, 40-41, 58, 62 and 65 have been objected to as being dependent upon a rejected base claim. Claims 22-23, 32, 40-41, 58, 62 and 65 have been rewritten above to place the claims 22-23, 32, 40-41, 48, 58, 62 and 65 in condition for allowance. Claim 69 is submitted to be allowable in view of the Budapest Treaty Deposit receipt for FERM BP-6791 attached to the Amendment of March 26, 2007 along with the statement below with regard to the availability of the deposited material. The dependencies of claims 36 and 37 have been amended above to be dependent from what is believed to be allowable claim 22. Upon entry of the above amendments, claims 22, 23, 32, 36, 37, 40, 41, 48, 58, 62, 65 and 69 will be pending.

Entry of the present Amendment will place the application in condition for allowance. Entry of the present Amendment and allowance of the application are requested.

Specifically, the Section 112, first paragraph, rejection of claim 69 is obviated by the previously-submitted Budapest Treaty Deposit Receipt, the disclosure of the deposit information on page 104 of the specification, and the assignee's assurance that all restrictions upon public access to the deposited material of claim 69 will be irrevocably removed upon the grant of a patent on this application which contains a claim to the product of claim 69. Withdrawal of the Section 112, rejection of claim 69 is requested.

The Section 103 rejection of claims 1, 15-16, 24, 36-37, 50, 51, 57, 63, 64 over Shitara (U.S. Patent No. 5,750,078), Queen (U.S. Patent No. 5,530,101) and Nakamura (Cancer, 80 (12 Suppl):2650-2655, 15 December 1997), will be moot upon entry of the present Amendment.

The Section 103 rejection of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 over Shitara, Queen and Nakamura will be moot upon entry of the present Amendment.

The Section 103 rejection of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 over Shitara (EP 0533199), Queen and Nakamura will be moot upon entry of the present Amendment.

The obviousness-type double patenting rejection of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 over claims 1-4 of U.S. Patent No. 6,437,098 "in view of" Queen (U.S. Patent No. 5, 530,101) and Nakamura will be moot upon entry of the present Amendment.

The Examiner's request that applicants confirm that the inventions of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 of the present application and claims 1-4 of the commonly assigned U.S. Patent No. 6,437,098, were commonly owned at the time of the invention of the present application will be moot upon entry of the present Amendment.

The obviousness-type double patenting rejection of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 over claim 2 of U.S. Patent No. 5,750,078 "in view of" Shitara (EP 0533199), Queen (U.S. Patent No. 5,530,101) and Nakamura, will be moot upon entry of the present Amendment.

The Examiner's request that applicants confirm that the inventions of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 of the present application and the claims of U.S. Patent No. 5,750,078, were commonly owned at the time of the invention of the present application will be moot upon entry of the present Amendment.

The obviousness-type double patenting rejection of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 over claims 1 and 2 of U.S. Patent No. 6,495,666 "in view of" Shitara (EP 0533199), Queen and Nakamura, , will be moot upon entry of the present Amendment.

The Examiner's request that applicants confirm that the inventions of claims 1, 15, 16, 24, 36, 37, 50, 51, 57, 63, 64 and 66-68 of the present application and claims 1 and 2 of U.S. Patent No. 6,495,666, were commonly owned at the time of the invention of the present application will be moot upon entry of the present Amendment.

Entry of the present Amendment will place the application in condition for allowance. entry of the present Amendment and a Notice of Allowance are requested.

HANAI et al
Appl. No. 10/089,500
April 13, 2007

The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /B. J. Sadoff/
 B. J. Sadoff
 Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100